

Senate Study Bill 1239

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
REBUILD IOWA BILL BY
CHAIRPERSON HOGG)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to disaster recovery by legalizing certain
2 actions taken and proceedings conducted by cities in response
3 to a natural disaster, designating certain activities as
4 essential corporate purposes, amending provisions related to
5 local bonding authority and contract letting requirements,
6 amending provisions related to city and county lease contracts
7 and loan agreements, modifying provisions relating to
8 municipal support of certain projects, and including effective
9 date and retroactive applicability date provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
11 TLSB 2190SC 83
12 md/sc/24

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1 1 DIVISION I
1 2 LEGALIZING ACT
1 3 Section 1. CERTAIN PRIOR PROCEEDINGS AND ACTIONS LEGALIZED
1 4 == AMENDMENT OF BUDGETS. All proceedings conducted or actions
1 5 taken by or on behalf of a city related to the emergency
1 6 repair or reconstruction of public improvements damaged by a
1 7 natural disaster during the period of time beginning May 1,
1 8 2008, and ending August 31, 2008, and related to all natural
1 9 disaster-related expenditures by a city in excess of an
1 10 original or previously amended city budget for the fiscal year
1 11 ending June 30, 2008, that were conducted or taken in
1 12 violation of the requirements of section 384.18 prior to the
1 13 effective date of this division of this Act are hereby
1 14 legalized and validated, and, to that extent, this Act applies
1 15 retroactively to the date such proceedings were conducted or
1 16 actions were taken. A city that is subject to this division
1 17 of this Act, shall by June 30, 2009, amend its budget for the
1 18 fiscal year ending June 30, 2008, to reflect any actions taken
1 19 and subsequently legalized and validated by this division of
1 20 this Act.

1 21 Sec. 2. EFFECTIVE DATE. This division of this Act, being
1 22 deemed of immediate importance, takes effect upon enactment.

1 23 DIVISION II

1 24 LOCAL FINANCING

1 25 AND PUBLIC CONSTRUCTION BIDDING

1 26 Sec. 3. NEW SECTION. 26.16 EMERGENCY REPAIRS AND
1 27 PROCEDURE.

1 28 1. When emergency repair of a public improvement, highway,
1 29 bridge, or culvert is necessary and the delay of advertising
1 30 and a public letting would cause serious loss or injury to the
1 31 governmental entity, the chief officer or official of the
1 32 governmental entity shall make a finding of the necessity to
1 33 institute emergency proceedings under this section and shall
1 34 procure a certificate from a competent licensed professional
1 35 engineer or registered architect certifying that emergency
2 1 repairs are necessary. Upon receiving the certificate, the
2 2 chief officer or chief official of a governmental entity may
2 3 accept, enter into, and make payment under a contract for
2 4 emergency repairs without satisfying the advertising and
2 5 public hearing requirements of this chapter, and without
2 6 obtaining a performance and payment bond as required by
2 7 chapter 573.

2 8 2. Following execution of the contract, the chief officer
2 9 or chief official shall provide the contract and information
2 10 regarding the emergency repairs to the governing body of the
2 11 governmental entity at its next meeting.

2 12 Sec. 4. Section 76.1, Code 2009, is amended to read as
2 13 follows:

2 14 76.1 MANDATORY RETIREMENT.

2 15 1. Hereafter issues of bonds of every kind and character
2 16 by counties, cities, and school corporations shall be
2 17 consecutively numbered.

2 18 2. a. The annual levy shall be sufficient to pay the
2 19 interest and approximately such portion of the principal of
2 20 the bonds as will retire them in a period not exceeding twenty
2 21 years from date of issue, except as provided in paragraph "b".

2 22 b. General obligation bonds issued for the purposes
2 23 specified in section 384.24, subsection 3, paragraphs "w"
2 24 through "z", and bonds issued to refund or refinance bonds
2 25 issued for the purposes specified in section 384.24,
2 26 subsection 3, paragraphs "w" through "z", may mature and be
2 27 retired in a period not exceeding thirty years from date of
2 28 issue.

2 29 3. Each issue of bonds shall be scheduled to mature
2 30 ~~seriatim~~ in the same order as numbered.

2 31 Sec. 5. Section 76.2, unnumbered paragraph 1, Code 2009,
2 32 is amended to read as follows:

2 33 The governing authority of these political subdivisions
2 34 before issuing bonds shall, by resolution, provide for the
2 35 assessment of an annual levy upon all the taxable property in
3 1 the political subdivision sufficient to pay the interest and
3 2 principal of the bonds within a period named not exceeding
3 3 ~~twenty years~~ the applicable period of time specified in
3 4 section 76.1. A certified copy of this resolution shall be

3 5 filed with the county auditor or the auditors of the counties
3 6 in which the political subdivision is located; and the filing
3 7 shall make it a duty of the auditors to enter annually this
3 8 levy for collection from the taxable property within the
3 9 boundaries of the political subdivision until funds are
3 10 realized to pay the bonds in full. The levy shall continue to
3 11 be made against property that is severed from the political
3 12 subdivision after the filing of the resolution until funds are
3 13 realized to pay the bonds in full.

3 14 Sec. 6. Section 314.1, subsection 2, Code 2009, is amended
3 15 to read as follows:

3 16 2. Notwithstanding any other provision of law to the
3 17 contrary, a public improvement that involves the construction,
3 18 reconstruction, or improvement of a highway, bridge, or
3 19 culvert and that has a cost in excess of the applicable
3 20 threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or
3 21 313.10, as modified by the bid threshold subcommittee pursuant
3 22 to section 314.1B, shall be advertised and let for bid, except
3 23 such public improvements that involve emergency work pursuant
3 24 to section ~~26.16, 309.40A, or 313.10, or 384.103, subsection~~

3 25 2. For a city having a population of fifty thousand or less,
3 26 a public improvement that involves the construction,
3 27 reconstruction, or improvement of a highway, bridge, or
3 28 culvert that has a cost in excess of twenty-five thousand
3 29 dollars, as modified by the bid threshold subcommittee
3 30 pursuant to section 314.1B, shall be advertised and let for
3 31 bid, excluding emergency work. However, a public improvement
3 32 that has an estimated total cost to a city in excess of a
3 33 threshold of fifty thousand dollars, as modified by the bid
3 34 threshold subcommittee pursuant to section 314.1B, and that
3 35 involves the construction, reconstruction, or improvement of a
4 1 highway, bridge, or culvert that is under the jurisdiction of
4 2 a city with a population of more than fifty thousand, shall be
4 3 advertised and let for bid. Cities required to competitively
4 4 bid highway, bridge, or culvert work shall do so in compliance
4 5 with the contract letting procedures of sections 26.3 through
4 6 26.13.

4 7 Sec. 7. Section 331.301, subsection 10, paragraph e,
4 8 unnumbered paragraph 1, Code 2009, is amended to read as
4 9 follows:

4 10 The board may authorize a lease or lease-purchase contract
4 11 which is payable from the general fund ~~and which if the~~
4 12 ~~contract~~ would not cause the total of lease and lease-purchase
4 13 ~~payments of the county~~ due from the general fund of the county
4 14 in any single future fiscal year for all lease or
4 15 lease-purchase contracts in force on the date of the
4 16 authorization, excluding payments to exercise purchase options
4 17 or to pay the expenses of operation or ownership of the
4 18 property, to exceed ten percent of the last certified general
4 19 fund budget amount in accordance with the following
4 20 procedures:

4 21 Sec. 8. Section 331.341, subsection 1, Code 2009, is
4 22 amended to read as follows:

4 23 1. When the estimated total cost of a public improvement,
4 24 other than improvements which may be paid for from the
4 25 secondary road fund, exceeds the competitive bid threshold in
4 26 section 26.3, or as established in section 314.1B, the board
4 27 shall follow the competitive bid and contract letting
4 28 procedures for governmental entities in chapter 26 and ~~the~~
~~4 29 contract letting procedures in section 384.103.~~ As used in
4 30 this section, "public improvement" means the same as defined
4 31 in section 26.2 as modified by this subsection.

4 32 Sec. 9. Section 331.402, subsection 3, paragraph d,
4 33 unnumbered paragraph 1, Code 2009, is amended to read as
4 34 follows:

4 35 The board may authorize a loan agreement which is payable
5 1 from the general fund ~~and which if the loan agreement would~~
5 2 not cause the total of scheduled annual payments of principal
5 3 or interest or both principal and interest ~~of the county due~~
5 4 from the general fund of the county in any single future
5 5 fiscal year with respect to all loan agreements in force on
5 6 the date of the authorization to exceed ten percent of the
5 7 last certified general fund budget amount in accordance with
5 8 the following procedures:

5 9 Sec. 10. Section 357A.12, unnumbered paragraph 2, Code
5 10 2009, is amended to read as follows:

5 11 The procedures for competitive bidding and emergency
~~5 12 repairs specified in chapter 26 and for emergency repairs as~~
~~5 13 specified in section 384.103, subsection 2,~~ shall apply to
5 14 construction carried out pursuant to this chapter.

5 15 Sec. 11. Section 364.4, subsection 4, paragraph e,
5 16 unnumbered paragraph 1, Code 2009, is amended to read as
5 17 follows:

5 18 The governing body may authorize a lease or lease-purchase
5 19 contract which is payable from the general fund ~~and which if~~
~~5 20 the contract~~ would not cause the total of annual lease or
5 21 lease-purchase payments ~~of the city~~ due from the general fund
5 22 of the city in any single future fiscal year for all lease or
5 23 lease-purchase contracts in force on the date of the
5 24 authorization, excluding payments to exercise purchase options
5 25 or to pay the expenses of operation or ownership of the
5 26 property, to exceed ten percent of the last certified general
5 27 fund budget amount in accordance with the following
5 28 procedures:

5 29 Sec. 12. Section 384.24, subsection 3, Code 2009, is
5 30 amended by adding the following new paragraphs:

5 31 NEW PARAGRAPH. w. The remediation, restoration, repair,
5 32 cleanup, and improvement of property that has been damaged by
5 33 a disaster as defined in section 29C.2.

5 34 NEW PARAGRAPH. x. The reimbursement of the city's general
5 35 fund or other funds of the city for expenditures made related
6 1 to remediation, restoration, repair, and cleanup of damage
6 2 caused by a disaster as defined in section 29C.2.

6 3 NEW PARAGRAPH. y. The acquisition, construction,
6 4 extension, improvement, repair, and equipping of public
6 5 buildings, and the acquisition of real estate needed for such
6 6 purposes, if the principal amount of the bonds does not exceed
6 7 the following limits:

6 8 (1) Four hundred thousand dollars in a city having a
6 9 population of five thousand or less.

6 10 (2) Seven hundred thousand dollars in a city having a
6 11 population of more than five thousand but not more than
6 12 seventy-five thousand.

6 13 (3) One million dollars in a city having a population of
6 14 more than seventy-five thousand.

6 15 NEW PARAGRAPH. z. The administrative expenses incurred by
6 16 a city as the result of undertaking an essential corporate
6 17 purpose.

6 18 Sec. 13. Section 384.24A, subsection 4, unnumbered
6 19 paragraph 1, Code 2009, is amended to read as follows:

6 20 The governing body may authorize a loan agreement which is
6 21 payable from the general fund ~~and which if the loan agreement~~
6 22 would not cause the total of scheduled annual payments of
6 23 principal or interest or both principal and interest ~~of the~~
~~6 24 city~~ due from the general fund ~~of the city~~ in any single
6 25 future fiscal year with respect to all loan agreements in
6 26 force on the date of the authorization to exceed ten percent
6 27 of the last certified general fund budget amount in accordance
6 28 with the following procedures:

6 29 Sec. 14. Section 384.103, Code 2009, is amended to read as
6 30 follows:

6 31 384.103 BONDS AUTHORIZED ~~-- EMERGENCY REPAIRS.~~

6 32 ~~1-~~ A governing body may authorize, sell, issue, and
6 33 deliver its bonds whether or not notice and hearing on the

6 34 plans, specifications, form of contract, and estimated cost
6 35 for the public improvement to be paid for in whole or in part
7 1 from the proceeds of said bonds has been given, and whether or
7 2 not a contract has been awarded for the construction of the
7 3 improvement. This ~~subsection~~ section does not apply to bonds
7 4 which are payable solely from special assessment levies
7 5 against benefited property.

~~7 6 2. When emergency repair of a public improvement is
7 7 necessary and the delay of advertising and a public letting
7 8 might cause serious loss or injury to the city, the governing
7 9 body shall, by resolution, make a finding of the necessity to
7 10 institute emergency proceedings under this section, and shall
7 11 procure a certificate from a competent licensed professional
7 12 engineer or registered architect, not in the regular employ of
7 13 the city, certifying that emergency repairs are necessary.~~

~~7 14 In that event the governing body may contract for emergency
7 15 repairs without holding a public hearing and advertising for
7 16 bids, and the provisions of chapter 26 do not apply.~~

7 17 Sec. 15. Section 390.3, unnumbered paragraph 2, Code 2009,
7 18 is amended to read as follows:

7 19 However, in the performance of a joint agreement, the
7 20 governing body is not subject to statutes generally applicable
7 21 to public contracts, including hearings on plans,
7 22 specifications, form of contracts, costs, notice and
7 23 competitive bidding required under chapter 26 ~~and section~~
~~7 24 384.103~~, unless all parties to the joint agreement are cities
7 25 located within the state of Iowa.

7 26 Sec. 16. Section 419.1, subsection 12, Code 2009, is
7 27 amended by adding the following new paragraph:

7 28 NEW PARAGRAPH. c. Land, buildings, or improvements that
7 29 are eligible for financing from midwestern disaster area bonds
7 30 authorized under the federal Emergency Economic Stabilization
7 31 Act of 2008, Pub. L. No. 110=185.

7 32 NEW PARAGRAPH. d. An activity for which tax exempt
7 33 financing is authorized by the Internal Revenue Code, together
7 34 with any other financing necessary or desirable in connection
7 35 with such activity.

8 1 Sec. 17. Section 419.17, subsection 2, Code 2009, is
8 2 amended by striking the subsection.

8 3 Sec. 18. Section 419.8, Code 2009, is repealed.

8 4 Sec. 19. EFFECTIVE DATE. This division of this Act, being
8 5 deemed of immediate importance, takes effect upon enactment.

8 6 EXPLANATION

8 7 This bill relates to disaster recovery by making changes
8 8 relating to local bonding, contract letting, lease or
8 9 lease-purchase contract requirements, loan agreement
8 10 requirements, the definition of essential corporate purpose,
8 11 and the definition of "project" for purposes of municipal
8 12 contributions to projects under Code chapter 419, and by
8 13 authorizing certain disaster-affected cities to amend their
8 14 budgets for the fiscal year ending June 30, 2008.

8 15 Division I of the bill provides that all proceedings
8 16 conducted or actions taken by or on behalf of a city related
8 17 to the emergency repair or reconstruction of public
8 18 improvements damaged by a natural disaster during the period
8 19 of time beginning May 1, 2008, and ending August 31, 2008, and
8 20 related to all natural disaster-related expenditures by a city
8 21 in excess of an original or previously amended city budget for
8 22 the fiscal year ending June 30, 2008, that were conducted or
8 23 taken in violation of the requirements of Code section 384.18
8 24 prior to the effective date of this division of this Act are
8 25 legalized and validated. Division I requires those cities
8 26 that are subject to the division to amend their budgets for
8 27 the fiscal year ending June 30, 2008.

8 28 Division I of the bill takes effect upon enactment and
8 29 applies retroactively to the date of any proceeding or action
8 30 legalized and validated under the division.

8 31 Division II of the bill amends the definition of essential
8 32 corporate purpose of a city to include the remediation,
8 33 restoration, repair, cleanup, and improvement of property that
8 34 has been damaged by a disaster; the reimbursement of the
8 35 city's general fund or other city funds for expenditures
9 1 made related to remediation, restoration, repair, and cleanup
9 2 of damage caused by a disaster; the acquisition, construction,
9 3 extension, improvement, repair, and equipping of public
9 4 buildings, subject to limitations based on population; and
9 5 administrative expenses incurred by a city as the result of
9 6 undertaking an essential corporate purpose. Division II also
9 7 amends Code section 76.1 by providing that general obligation
9 8 bonds issued for these new essential corporate purposes, and
9 9 bonds issued to refund or refinance those bonds, may mature

9 10 and be retired in a period not exceeding 30 years from the
9 11 date of issue.

9 12 Division II amends the definition of "project" under Code
9 13 section 419.1, relating to municipal funding of certain
9 14 projects, to include projects that, in addition to the use of
9 15 tax-exempt financing, include financing necessary or desirable
9 16 in connection with the project and to include projects that
9 17 are eligible for financing from midwestern disaster area bonds
9 18 under the federal Emergency Economic Stabilization Act of
9 19 2008. The definition of "project" in Code section 419.1 also
9 20 applies to the Iowa finance authority's bond bank program
9 21 under Code section 16.102. Division II also repeals Code
9 22 section 419.8, which restricts the use of land owned by the
9 23 municipality for a project and requires the entire cost of any
9 24 project to be paid out of the proceeds from the sale of bonds
9 25 issued under Code chapter 419 and not from any other funds of
9 26 the city, except for donations of property or money received
9 27 by the city to be used as a part of a project.

9 28 Division II establishes procedures for certain emergency
9 29 repairs under Code chapter 26 relating to public construction
9 30 bidding, strikes similar provisions in Code section 384.103,
9 31 and makes conforming amendments. Division II provides that
9 32 when emergency repair of a public improvement, highway,
9 33 bridge, or culvert is necessary and the delay of advertising
9 34 and a public letting would cause serious loss or injury to the
9 35 governmental entity, the chief officer or official of the
10 1 governmental entity shall make a finding of the necessity to
10 2 institute emergency proceedings and shall procure a
10 3 certificate from a competent licensed professional engineer or
10 4 registered architect certifying that emergency repairs are
10 5 necessary. Division II also provides that upon receiving the
10 6 certificate, the chief officer or chief official of a
10 7 governmental entity may accept, enter into, and make payment
10 8 under a contract for emergency repairs without satisfying the
10 9 advertising and public hearing requirements of Code chapter
10 10 26, and without obtaining a performance and payment bond as
10 11 required by Code chapter 573. Division II further provides
10 12 that following execution of the contract, the chief officer or
10 13 chief official shall provide the contract and information
10 14 regarding the emergency repairs to the governing body of the
10 15 governmental entity at its next meeting.

10 16 Division II amends city and county requirements for lease
10 17 or lease-purchase contracts and loan agreements by specifying
10 18 that such contracts or agreements may not be authorized if the
10 19 contract or agreement would cause payments from the city or
10 20 county general fund to exceed 10 percent of the last city or
10 21 county certified general fund budget unless certain procedures
10 22 are followed.

10 23 Division II of the bill takes effect upon enactment.

10 24 LSB 2190SC 83

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